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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,174	08/09/2001	Uwe Walz	KON-77	4185

7590

06/05/2002

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EXAMINER

YEH, JAMES T

ARTUNIT

PAPER NUMBER

1714

DATE MAILED: 06/05/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/925,174

Applicant(s)

WALZ ET AL.

Examiner

James T Yeh

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Huang et al (U.S. 5,955,514).

Huang discloses a dental composition comprising polymerizable monomers and nonreactive fillers (col.8 lines 47-66). His dental composition is useful as dental luting cement, liners, seal bases and restoratives (Abstract).

The filler material includes inorganic glass formed from strontium and tungsten, ceramic, organic polymer, silica, aluminosilicates, and zeolite (col.9 lines 1-7,col.12 lines 60-67). The polymerizable monomers include hydroxyethyl methacrylate and the polymerizing system has initiator, accelerator, catalyst, pigment, and curing agent (col.11 lines 14, 54, col.13 lines 20).

This disclosure meets the limitations of the present claims.

### ***Allowable Subject Matter***

2. Claims 2-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the

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limitations of the base claim and any intervening claims. Claims 2-6 would be allowable because the closest prior art of record, Huang et al of U.S. 5,955,514 and Lu et al of U.S. 5,973,022, do not disclose or suggest the use of polyaminoester together with polymerizable monomers as the dental composition for sealing and temporary crown and bridge applications.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to the present application in general:

U.S. Pat. No. 6,063,830 to Deguchi et al – dental curable composition with  
polyester and polymerizable monomers

U.S. Pat. No. 5,877,232 to Storch et al – resinous dental composition based  
on polymerizable polysiloxanes and polyester

WO 02/013767 to Walz et al (present applicants)– polyamino ester and dental  
application

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Yeh whose telephone number is (703)

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305-3139. The examiner can normally be reached on Monday – Friday from 8:00 am to 5:30 pm with the exception of the first Friday per bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached at (703) 306-2777.

James T. Yeh, Ph.D.  
May 31, 2002

EDWARD J. CAIN  
PRIMARY EXAMINER  
GROUP 1500

